

¹ The parties do not dispute that there is complete diversity of citizenship between the parties. The issue is the amount in controversy and its effect on timeliness.

Dollars (\$25,000). In her Petition, plaintiff did not state that she was seeking an amount in excess of the federal jurisdictional limit of Seventy-Five Thousand Dollars (\$75,000).

There was an exchange of several emails from defendant to plaintiff's counsel requesting that the plaintiff provide defendant a demand. Plaintiff did not provide a specific response. On October 21, 2011 defendant served plaintiff with its First Interrogatories in which defendant asked: "25. Pursuant to Mo.Rev.Stat. § 509.050 please state the total amount of monetary damages you are claiming." In her response to Interrogatory 25 plaintiff stated in pertinent part ". . .at this juncture and in an earnest effort to comply with the intent and purpose of R.S.Mo. § 509.050.2, plaintiff anticipates asking the jury for at least One Million Dollars (\$1,000,000) in compensatory damages with respect to the serious injuries and damages suffered by her and as outlined or referenced herein. . . ." Based on this response provided by plaintiff, which for the first time stated plaintiff intended to seek damages in excess of the federal jurisdictional limit, defendant filed its Notice of Removal on December 7, 2011. Plaintiff filed her Motion to Remand on December 8, 2011.

"We find the thirty-day time limit of section 1446(b) begins running upon receipt of the initial complaint only when the complaint explicitly discloses the plaintiff is seeking damages in excess of the federal jurisdictional amount." Knudson v. Systems Painters, Inc., 634 F.3d 968, 974 (8th Cir. 2011) quoting In Re Willis, 228 F.3d 896, 897 (8th Cir. 2000). The Knudson court noted that this rule "promotes certainty and judicial efficiency by not requiring courts to inquire into what a particular defendant may or may not subjectively know." Id. at 974.

In Knudson, the Eighth Circuit rejected appellate's suggestion that a defendant should be required to "glean" the extent of damages based on generalities in the Petition. In the instant case, because plaintiff was prohibited by Missouri Rule of Civil Procedure 55.19 from explicitly stating a dollar amount or figure claimed as damages and because plaintiff did not provide defendant with any amended pleading, motion, order or other paper from which one could discern that the case

was removable until the November 9, 2011 Answers to Interrogatories, defendant's Notice of Removal, (filed December 7, 2011), was timely filed.

Defendant's contrary arguments are without merit and the cases cited are not on point because they do not deal with the time limitation of 28 U.S.C. § 1446(b). Knudson, (2011) controls.

Accordingly,

IT IS HEREBY ORDERED that defendant's Motion to Remand is **DENIED**. [Doc. 2]

IT IS FURTHER ORDERED that a Rule 16 Scheduling Conference shall be held on January 27, 2012 as more fully set out in the Order Setting Rule 16 Scheduling Conference filed contemporaneously herewith.

/s/Mary Ann L. Medler
MARY ANN L. MEDLER
UNITED STATES MAGISTRATE JUDGE

Dated this 30th day of December, 2011.